

In the Supreme Court of the State of Alaska

Sandy Sulzbach and Rob Sulzbach,
Appellants,

v.

**City & Borough of Sitka and John T.
Ferrick,**
Appellees.

Supreme Court No. **S-17853**

Order

Date of Order: **August 11, 2021**

Trial Court Case No. **1SI-17-00237CI**

Having considered Appellants' August 10, 2021 motion to continue the currently scheduled August 19, 2021 oral arguments in Anchorage to the tentative February 2022 oral argument calendar in Juneau, and Appellee's August 11, 2021 opposition, the following considerations are noted:

(1) in the normal course, when the briefing in this appeal was complete oral arguments would have been scheduled for the next available Juneau calendar absent concurrence of the parties to hold the oral arguments in Anchorage; (2) beginning in March 2020, due to pandemic restrictions, oral arguments in supreme court appeals were conducted via Zoom without regard to the normal location for the oral arguments; (3) in late April 2021, after the April 2021 oral arguments via Zoom, a cyberattack on the Alaska Court System affected the supreme court's ability to conduct oral arguments via Zoom, and the May 2021 oral argument calendar cases were reset, on short notice, for in-person oral arguments in Anchorage; (4) the supreme court decided at that point that it would, subject to later pandemic restrictions, return to in-person oral arguments for all appeals; (5) Appellant's counsel was aware of this changeover because of his participation in another appeal that had been scheduled for Zoom oral arguments in May 2021, and the parties in that matter agreed in mid-May to put the oral arguments off until

the next Juneau oral argument calendar; (6) the May 20, 2021 notice setting oral arguments in this appeal for August 18 or 19, 2021 was issued during this change-over period, but made no mention of a location for the argument; (7) Appellants' counsel has stated that he did not realize the case was set for oral argument in Anchorage until August 9; (8) Appellee's counsel has stated that he already has spent time preparing for the August 19 oral argument that will have to be duplicated if the matter is put over until the next Juneau oral argument calendar; (9) Appellee's counsel also has stated Appellee's position that a long delay is prejudicial to its desire to bring this litigation to a conclusion; (10) there is no guarantee that the court will conduct in-person oral arguments in Juneau in February 2022 in light of pandemic uncertainties; and (11) supreme court law clerks and justices have expended time preparing for the August 19 oral arguments.

In light of foregoing, **IT IS ORDERED** that Appellants' counsel shall by **4:00 p.m. on August 12, 2021**, notify the Clerk of the Appellate Courts and Appellee's counsel of Appellants' choice of one of the following three options:

1. Conduct oral arguments in Anchorage on August 19 as scheduled, with Appellants' counsel appearing in person or by telephone and the arguments streamed live;
2. Continue the oral arguments until the next Juneau oral argument calendar, with Appellants' counsel agreeing to pay not more than \$1,000 to Appellee's counsel for time spent to date preparing for the August 19 oral arguments; or

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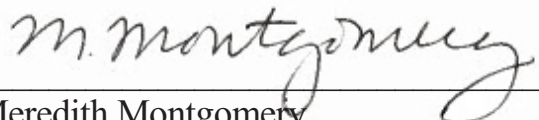
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3. Conduct oral arguments on August 19 as scheduled, but via Zoom with no in-person attendance in the courtroom.

Entered at the direction of an individual justice.

Clerk of the Appellate Courts


Meredith Montgomery

cc: Supreme Court Justices
Calendar

Distribution:

Email:
Choate, Mark C.
Bowman, Timothy W.